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# Procedures for Addressing Sex-Based Misconduct Involving PreK-12 Students<sup>1</sup>

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## About These Procedures

Effective Date:	August 1, 2024
Responsible Office:	Office for Access & Equity, Equal Employment Opportunity Division
Related Policy:	<a href="#">Sex-Based Misconduct Policy</a> (CAM HR-79)
Link to this document:	<a href="https://oae.illinois.edu/prek-12-sbm-procedures">https://oae.illinois.edu/prek-12-sbm-procedures</a>
To learn more:	<a href="https://oae.illinois.edu/our-services/discrimination-and-harassment/">https://oae.illinois.edu/our-services/discrimination-and-harassment/</a> <a href="https://wecare.illinois.edu">https://wecare.illinois.edu</a>
	Phone: 217-333-0885, option #2
	Email: <a href="mailto:eeodivision@illinois.edu">eeodivision@illinois.edu</a>

## 1. Introduction

The University of Illinois Urbana-Champaign (“University”) is committed to ensuring that its learning and working environments are free from all forms of sex-based discrimination.

The University includes the following PreK-12 schools: University Laboratory High School, University Primary School, the Child Development Laboratory Preschool, and Orchard Downs Preschool (students at these schools will collectively be referred to as “PreK-12 Students”).

These Procedures for Addressing Sex-Based Misconduct Including PreK-12 Students (“Procedures”) outline the resolution processes that will be used to investigate and/or resolve a complaint of Sex-Based Misconduct as defined in the [Sex-Based Misconduct Policy](#) when a PreK-12 Student is a party to the allegation. These procedures treat all parties equitably.

Nothing in these procedures may be read in derogation of the legal rights of a parent or guardian to act on behalf of a Complainant, Respondent, Party, or other individual.

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These procedures are subject to change should the United States Department of Education’s Office for Civil Rights publish interpretations of the federal 2024 Title IX Regulations that are inconsistent with these procedures, or in the event that court rulings and/or opinions amend, enjoin, or interpret said regulations.

The Associate Vice Chancellor for Access and Equity (“AVC”), the Director of the Equal Employment Opportunity Division of OAE (“Director”), the Senior EEO Associates (“Senior Associates”), EEO Associates and individuals hired by the University to act as such are all Title IX Coordinator designees for the purpose of effectuating these procedures.

The University retains the right to interpret these procedures in any way that is not clearly unreasonable. In administering these procedures, the Office for Access and Equity (“OAE”) will consult with campus partners as necessary and delegate tasks as necessary and appropriate.

## 2. Scope

### 2.1. Jurisdiction

The procedures set forth in this document will be followed by OAE when investigating and/or resolving complaints of Sex-Based Misconduct involving a PreK-12 Student. OAE has sole jurisdiction to adjudicate complaints in which a Complainant alleges that a PreK-12 Student engaged in Sex-Based Misconduct.

The [Office for Student Conflict Resolution](#) (OSCR) has jurisdiction over complaints against University students or University student organizations pursuant to the Student Code. Individuals who believe they have been subjected to misconduct by a student in violation of the [Student Code](#) should contact OSCR at (217) 333-3680 or [conflictresolution@illinois.edu](mailto:conflictresolution@illinois.edu). Complaints referred to OSCR shall be addressed pursuant to Student Disciplinary Procedures. Section 10.10. below sets forth the manner in which cases involving overlapping jurisdiction between OAE and OSCR will be handled.

The University may make adjustments to these procedures as needed in order to ensure that the rights of all parties and the interests of the University and the campus community are protected, provided that such adjustments are not unfairly prejudicial to any party and do not interfere with the due process rights of any party or any other right protected by applicable law, regulations, policy, or contract. Any such adjustments to procedures will be communicated to affected parties in a reasonable time, which may include after a report has been received or an investigation has commenced.

### 2.2. Applicability of these Procedures

When addressing, adjudicating, and/or resolving a complaint of misconduct under the Sex Based Misconduct Policy or any past version of the Sexual Misconduct Policy, the University will apply the policy definitions of misconduct that were in place at the time the alleged misconduct occurred, and will apply the procedures in this document except as provided in Section 2.2.1.

### 2.2.1. Title IX Sexual Harassment

For reports and/or complaints alleging Title IX Sexual Harassment (as defined in the Sexual Misconduct Policy from August 14, 2020 to July 31, 2024) occurring between August 14, 2020 and July 31, 2024, and the following conditions are met, the University will apply the “Procedures for Addressing Title IX Sexual Harassment Complaints” instead of the procedures in this document.

- a. The conduct took place in the United States of America;
- b. The conduct took place on University premises or property, at a University-sponsored event, or in buildings owned or controlled by the University’s recognized student organizations, or if the alleged conduct effectively deprived someone of access to a University educational program;
- c. The Respondent is a member of the University’s community; and
- d. The Complainant was participating in or attempting to participate in the education program or activity at the time the Formal Complaint was filed.

## 3. Definitions

**Advisor of Choice** means a person chosen by a Party to accompany the Party to meetings related to the resolution process, to advise the Party on that process. The Advisor of Choice may be any person, including but not limited to a(n): friend, parent or legal guardian, family member, mental health professional, certified victim’s advocate, or attorney. The Parties may select whoever they wish to serve as their Advisor of Choice as long as the Advisor is available.<sup>2</sup> Parties have the right to choose not to have an Advisor accompany them to meetings.

The Advisor of Choice may not testify in their capacity as an Advisor or obstruct an interview, speak unless invited to by the Investigator during an interview, or disrupt the process. If an Advisor is also a witness, they may testify in their capacity as a witness. The Investigator has the right to determine what constitutes appropriate behavior of an Advisor of Choice and take reasonable steps to ensure compliance with these Procedures. If a Party’s Advisor of Choice refuses to comply with the University’s established rules of decorum provided prior to or during the hearing, the University may exclude them from future meetings and proceedings.

**Clearly Erroneous Standard** is the standard of review for the appeal panel in determining if a mistake has been made in the determination of the case. The appeal panel is charged with

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<sup>2</sup> “Available” means the Party cannot insist on an Advisor who simply doesn’t have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter.

overturning or remanding a determination only if they are left with a definite and firm conviction that a mistake has been committed.

**Complainant** means:

- 1) A student or employee who is alleged to have been subjected to conduct that could constitute Sex-Based Misconduct; or
- 2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute Sex-Based Misconduct and who was participating or attempting to participate in a University education program or activity at the time of the alleged Sex-Based Misconduct; or
- 3) An individual who is alleged to have been subjected to conduct that could constitute a violation of the Sex-Based Misconduct Policy.

**Complaint** means an oral or written request to the University that objectively can be understood as a request for the University to investigate and make a determination about alleged Sex-Based Misconduct.

**Days** means business days.

**Decision-Maker** refers to the person who has the authority to make Findings of Fact and Final Determinations within the University's Formal Grievance process. The decision-maker will be the same person as the Investigator.

**Education Program or Activity** means all of the operations of the University.

**Final Determination** means a conclusion by a Preponderance of the Evidence about whether the alleged conduct violated the Sex-Based Misconduct Policy.

**Finding of Fact** means a conclusion by the Preponderance of the Evidence about whether the alleged conduct did or did not occur.

**Formal Grievance Process** means a method of formal resolution involving an investigation and determination that is designed by the University to address conduct that falls within the Sex-Based Misconduct Policy.

**Grievance Process Pool** includes any Investigators, Decision-Makers, and appeal officers who may perform any or all of these roles (though not at the same time or with respect to the same case). All members of the Grievance Process Pool are trained annually to perform their roles.

**Investigator** means the person or persons charged by the University with gathering facts about an alleged violation of the Sex-Based Misconduct Policy, synthesizing the evidence, and compiling this

information into an investigation report and file of relevant and not otherwise impermissible evidence.

**Member of the University's Community** means a person who is formally affiliated with the University, including but not limited to students, employees, visiting scholars, and post-doctoral fellows.

**Notice** occurs when a person informs the Title IX Coordinator or a responsible employee of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct. (This is distinct from the Notice of Investigation and Allegations described in Section 8.4.1 below.)

**Parties/Party** include the Complainant(s) and Respondent(s), collectively.

**PreK-12 Student** means a student enrolled in a PreK-12 program at University Laboratory High School, University Primary School, the Child Development Laboratory Preschool, or Orchard Downs Preschool.

**Preponderance of the Evidence Standard** means the standard of review for determining if a violation of policy occurred. Under this standard, the evidence needs to show that the facts are more likely to be true than not before making a Finding of Fact or Final Determination.

**Prohibited Conduct** means all forms of misconduct defined in the Sex-Based Misconduct Policy.

**Remedies** means measures provided, as appropriate, to a Complainant or any other person the University identifies as having had their equal access to the University's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the University's education program or activity after the University determines that sex discrimination occurred.

**Report** is when an employee, student, or third party informs the Title IX Coordinator of an alleged occurrence of prohibited conduct under the Sex-Based Misconduct Policy.

**Resolution** means the result of a Preventative Measure or a Formal Grievance Process.

**Respondent** means a person who is alleged to have engaged in Prohibited Conduct.

**Sanction** means a consequence imposed by the University on a Respondent who is found to have violated the Sex-Based Misconduct Policy.

**Sex-Based Misconduct** means any form of Prohibited Conduct under the Sex-Based Misconduct Policy.

**University Student** means a student enrolled in post-secondary education at the University of Illinois Urbana Champaign.

## 4. Reports or Complaints of Sex-Based Misconduct

Reports or Complaints of Sex-Based Misconduct may be made using any of the following options:

- a. File a Report or Complaint with, or give verbal notice to, the Title IX Coordinator. Such a Report may be made at any time (including during non-business hours) by telephone (217-333-3333) or email ([titleixcoordinator@illinois.edu](mailto:titleixcoordinator@illinois.edu)), or by mail to the office address (614 East Daniel St., Suite 303, Champaign, IL 61820).
- b. Report online, using the reporting form posted at [wecare.illinois.edu](http://wecare.illinois.edu). Anonymous Reports are accepted, but the report may give rise to a need to try to determine the Parties' identities. Anonymous Reports typically limit the University's ability to investigate, respond, and provide remedies, depending on what information is shared. Measures intended to protect the community or redress or mitigate harm may be enacted. It also may not be possible to provide supportive measures to Complainants who are the subject of an Anonymous Report.

## 5. Supportive Measures, Leave, and Preventative Measures

The University will offer and implement appropriate and reasonable supportive measures to the Parties. The Title IX Coordinator or designee in OAE promptly makes supportive measures available to the Complainant upon receiving a Report or a Complaint and to the Respondent upon providing the Notice of Investigation and Allegations. At the time that supportive measures are offered, the University will inform the Complainant or if the Complainant is unknown, then the individual who reported the conduct, of the grievance procedure. The Title IX Coordinator or designee will work with a party to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

The University will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the University's ability to provide those supportive measures. The University will act to ensure as minimal an academic/occupational impact on the Parties as possible. The University will implement measures in a way that does not unreasonably burden any party.

The range of supportive measures available to Complainants and Respondents along with the process to request a review of supportive measures is available at [wecare.illinois.edu](http://wecare.illinois.edu).

Violations of no contact orders or other restrictions may be referred to appropriate student conduct processes for enforcement.<sup>3</sup>

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<sup>3</sup> Alleged violations of a no-contact directive by a PreK-12 Student may be separately investigated. The results of such an investigation will be shared with both parties and the school administration. Additionally, the separate investigation report into the alleged violation of the no-contact directive may be used as an exhibit to the Sex-Based Discrimination investigation.

If the Complainant or Respondent is a postsecondary student with a disability, the Title IX Coordinator may consult, as appropriate, with DRES to determine how to comply with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, in the implementation of supportive measures.

If the Complainant or Respondent is an elementary or secondary student with a disability, the Title IX Coordinator will consult with one or more members of the student's Individualized Education Program (IEP) team or member(s) of the group of persons responsible for the student's placement to determine how to comply with the requirements of the Individuals with Disabilities Education Act in the implementation of supportive measures.

Where a Party is under the age of 18, a parent or legal guardian will be invited to join meetings held with their child to discuss supportive measures.

### **5.1. Administrative Leave**

Subject to relevant University policies and procedures governing interim actions and leaves, the University may place an employee Respondent, including University student employee Respondents, on administrative leave from employment responsibilities during the pendency of the grievance process.

### **5.2. Emergency Removal**

The University may remove a PreK-12 Student Respondent from the University's education program or activity on an emergency basis. Any such removal will be based on an individualized safety and risk analysis that determines that the Respondent poses an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of Sex-Based Misconduct justifying removal. Immediately after the removal, the University will provide Respondent with notice and an opportunity to challenge the decision.

This process may be carried out in conjunction with existing processes for emergency removals.

### **5.3. Preventative Measures**

OAE may utilize preventative measures as a supportive measure in response to a Report or Complaint of Sex-Based Misconduct when the Complainant does not desire a Formal Grievance Process or when there is not enough information to establish a reasonable suspicion of a policy violation, which is required to proceed with a Formal Investigation.

As part of the evaluation of the appropriateness of preventative measures an Investigator may engage in a Preliminary Inquiry. The preventative measures process will not be employed when the allegations involve sexual, dating, or domestic violence.

Preventative measures are used to help address the Complainant's concerns and, regardless of whether a Complaint is initiated, to take prompt and effective steps to help ensure that Sex-Based

Misconduct does not continue to recur within the education program or activity. The preventative measures are designed to be flexible and enable OAE to address an individual's situation in an efficient and effective manner. These efforts may be accomplished with the assistance of other offices or administrators on campus in the area relevant to the Complaint. Examples include, but are not limited to, a warning to cease current behaviors, and educational conversations with the Respondent or others. If possible, the complainant's identity may be kept confidential from the Respondent during the preventative measures process.

Preventative measures do not seek to determine whether the alleged conduct violates the Sex-Based Misconduct Policy and do not result in findings related to responsibility. Preventative measures are not disciplinary or punitive.

OAE will attempt to conclude the preventative measures within 20 days of the Complainant's indication that they wish to proceed in this manner or OAE's decision to do so, whichever comes first. Following conclusion, OAE will document the preventative measures as appropriate. The reported allegations and steps taken will be maintained internally.

## **6. Requests for anonymity or no action**

To protect the Parties, every effort will be made to protect the privacy interests of the persons involved in a manner consistent with the need for a prompt and effective response to a Report or Complaint. If the Complainant requests that their name or other identifiable information not be shared, does not wish for an investigation to take place, or does not want a Complaint to be pursued, the Investigator, the Investigator's direct supervisor, and the Title IX Coordinator shall evaluate such request in light of the duty to ensure the safety of the University and to comply with state and federal law.

The Title IX Coordinator determines whether the University proceeds when the Complainant does not wish to do so. The Title IX Coordinator may submit a Complaint to initiate a grievance process upon completion of an initial assessment. If the Title IX Coordinator submits a Complaint pursuant to this section, the Title IX Coordinator is not a Party. The Title IX Coordinator or Investigator will notify the Complainant of the University's response to their request. The goal is to provide the Complainant with as much control over the process as possible, while balancing the University's obligation to protect its community.

If the University honors the request for anonymity, the University cannot proceed with a Formal Resolution Process. The University will take other appropriate steps to eliminate any such Sex-Based Misconduct, prevent its recurrence and remedy its effects on the Complainant and the University community. For example, this may include an educational conversation with the Respondent regarding the Sex-Based Misconduct Policy, setting expectations, and providing supportive measures to the Complainant. If the Complainant elects to take no action, they can decide to pursue a Complaint later.



If the University does not honor the request for anonymity or no action, the Title IX Coordinator will submit the Complaint. If a Complaint is submitted by the Title IX Coordinator, the Complainant (or their Advisor of Choice) and Respondent may have as much or as little involvement in the process as they wish. The Complainant and Respondent retain all rights under these procedures irrespective of their level of participation.

## 7. Dismissal of a Complaint

The University may dismiss a Complaint or any allegations therein if, at any time during the investigation or hearing, any of the following occurs:

- a) The University is unable to identify the Respondent after taking reasonable steps to do so.
- b) The Respondent is not participating in the University's education program or activity and is not employed by the University.
- c) The Complainant, voluntarily and in writing, withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a Complaint, and the University determines that without the Complainant's withdrawn allegations, the conduct would not constitute conduct prohibited by the Sex-Based Misconduct Policy. A Complainant who decides to withdraw a Complaint may later request to reinstate it or refile it.
- d) The University determines the conduct alleged in the complaint, even if proven, would not constitute conduct prohibited by the Sex-Based Misconduct Policy. Prior to dismissing on this ground, OAE will make reasonable efforts to clarify the allegations with the Complainant.

Upon any dismissal, the University will promptly send written notice of the dismissal and the rationale/basis for doing so simultaneously to the Complainant (and the Respondent if the Respondent has been notified of the complaint) with their parent(s) or legal guardian(s) carbon copied. The notification will include notice that a dismissal may be appealed. The dismissal decision is appealable by any notified Party under the procedures for appeal below (Section 8.7.4).

Upon dismissing a Complaint, the University will offer supportive measures to the notified Party or Parties as appropriate. The University will take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination, including sex-based harassment does not continue to recur within the University's education program or activity. Such a dismissal does not preclude action under other applicable state or federal laws or applicable University policies.

## 8. Resolution Process

### 8.1. Initial Assessment

Following receipt of a Report or Complaint, OAE will engage in an initial assessment. When the Complainant is under the age of 18, an Investigator will reach out to the appropriate administrator to determine the Complainant's parent/legal guardian's name and contact information. OAE will reach out to the PreK-12 Student Complainant and the parents/legal guardians to determine whether the Complainant prefers a supportive and remedial response, or a formal investigation and grievance process.

If an oral Complaint is received, an Investigator will commit the Complaint to writing, share it with the Complainant, and ask the Complainant to confirm its accuracy or provide edits to ensure an accurate written Complaint has been created.

OAE will attempt to conclude the Initial Assessment within twenty (20) days from the date the Report is received.

The University may consolidate complaints of Sex-Based Misconduct against more than one Respondent, or by more than one Complainant against one or more Respondents when the allegations arise out of the same facts or circumstances. Where consolidation occurs, references in these procedures to a Complainant or Respondent include the plural, as applicable.

The Respondent is presumed not responsible for the alleged conduct unless and until a determination regarding responsibility is made only at the conclusion of the formal resolution process once all evidence has been collected and analyzed by a preponderance of the evidence.

#### 8.1.1. Requests for Investigation

The following people have the right to make a complaint and request that the University investigate and make a determination about alleged **Sex Discrimination**:

- a. A Complainant, a parent, guardian, or authorized legal representative with the legal right to act on behalf of a complainant; the Title IX Coordinator; any student or employee; any person other than a student or employee who was participating or attempting to participate in a program or activity at the time of the alleged sex discrimination.

The following people have the right to make a complaint and request that the University investigate and make a determination about alleged **Sex-Based Harassment and Other Prohibited Misconduct**:

- b. A Complainant, a parent, guardian, or authorized legal representative with the legal right to act on behalf of a complainant; or the Title IX Coordinator.

OAE will make the ultimate determination about whether an investigation will proceed.

### **8.1.2. Status of the Parties**

If a person other than the Complainant requests that OAE investigate and make a determination, they do not become the Complainant and they do not assume any rights of the Complainant as laid out in these procedures. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of the Complainant may act on behalf of the Complainant through the grievance procedure.

In matters where there is an allegation that a policy or practice is resulting in sex discrimination, and there is not a person identified as a Respondent, and OAE determines to move forward with a formal investigation, the area or unit of the University which owns the policy or practice will be identified. OAE will provide the leader of the identified area with the rights afforded to Respondents, with the exception of supportive measures, although they will not become the Respondent.

## **8.2. Preliminary Inquiry**

OAE may conduct a Preliminary Inquiry upon request or at its own discretion. The purpose of a Preliminary Inquiry is to determine whether there is a reasonable suspicion of a policy violation. This includes, but is not limited to, gathering evidence and interviewing witnesses. The Respondent will not be contacted as part of the Preliminary Inquiry, however OAE may reach out to other third parties in conducting the Preliminary Inquiry.

## **8.3. Formal Grievance Process – Investigation for allegations of Sex-Based Misconduct**

### **8.3.1. Notice of investigation and allegations (NOIA)**

For allegations of Sex-Based Misconduct (not including student-Complainant sex-based harassment allegations), the Investigator will provide the parties with notice of the allegations and investigation (written or orally) that includes:

- a. Grievance procedures,
- b. Information regarding the allegations, including the identities of the parties involved, the conduct alleged to constitute Sex-Based Misconduct, and the date(s) and location(s) of the alleged incidents, if known,
- c. Prohibition against retaliation,
- d. Confirmation that parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of the evidence.

For allegations including student-Complainant sex-based harassment allegations, the Investigator shall provide a written notice of allegations and investigation prior to any initial party interviews.

The written notice of allegations for such cases will include all the above information required for sex discrimination notice and additionally includes:

- a. Statement the respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedure and that prior to the determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Decision-maker,
- b. Statement that the parties may have an advisor of their choice,
- c. Statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence and opportunity to access the relevant and not otherwise impermissible evidence upon request,
- d. Prohibition against knowingly making false statements or knowingly submitting false information.

The University may reasonably delay providing the NOIA to address reasonable concerns for the safety of any person as a result of issuing the NOIA. Reasonable concerns will be based on an individualized safety and risk analysis which evaluates the severity and imminence of a threat to the safety of any person arising from the allegations of Sex-Based Misconduct.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available which may warrant the addition or dismissal of various charges. Notice will be given to all Parties of any amendments to the NOIA.

Parties and Advisors are prohibited from disclosing information obtained by OAE through the Resolution Process, to the extent that information is the work product of OAE (meaning it has been produced, compiled, or written by OAE for purposes of its investigation and resolution of a Complaint), without authorization. Parties and Advisors are prohibited from publicly disclosing institutional work product that contains a party or witness's personally identifiable information without authorization or consent. Doing so can be subject to discipline under the applicable PreK-12 Student handbook or manual, the University of Illinois Code of Conduct or the University of Illinois Student Code.<sup>4</sup>

### **8.3.2. Ensuring impartiality**

Any individual materially involved in the administration of the resolution process, including the Title IX Coordinator or the Investigator/Decision-Maker, may neither have nor demonstrate a conflict of

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<sup>4</sup> Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of Sex Discrimination or Sex-Based Harassment is authorized.

interest or bias for a Party generally, or specifically. An appeal panelist will not have previously participated in the grievance procedure prior to the appeal.

The Parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Director, or their designee, will determine whether the concern is objectively reasonable and supportable. If so, another person will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Director, concerns should be raised with the Associate Vice Chancellor for Access and Equity. Where these procedures provide a timeline for raising objections at different points in the process, this section will not be read in contradiction.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including inculpatory and exculpatory evidence. Credibility determinations may not be based on an individual's status or participation in this process.

The University presumes that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined by the Decision-Maker to be responsible for a policy violation by the applicable standard of proof at the end of the grievance procedure.

### **8.3.3. Steps in the investigation process**

All investigations are adequate, reliable, impartial, prompt, and fair. Investigations involve an equal opportunity for the Parties to present fact witnesses and collection of inculpatory and exculpatory evidence that is relevant and not otherwise impermissible.

For meetings with a Party involving allegations of Sex-Based Harassment with a Student Party, the Investigator will provide written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the Party to prepare to participate. The Party shall have an opportunity to be accompanied by an Advisor of Choice to such meetings.

The Investigator gathers, assesses, and determines the relevance and permissibility of evidence. The Investigator will interview available and relevant Parties and witnesses to ask questions and assess credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of Sex-Based Misconduct.

The Investigator will interview available and relevant Parties and witnesses to ask questions and assess credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of Sex-Based Misconduct. After each interview with Parties or witnesses, the Investigator will provide the interviewee an opportunity to review and verify the Investigator's summary notes of the relevant evidence and/or testimony from their respective interviews.

Interviews cannot be recorded without express written consent by all individuals involved, and no unauthorized recording is permitted by anyone participating in the investigative interviews. Parties and witnesses may take notes during investigation meetings. Requests for recording of an interview

must be submitted with the rationale for consideration to the Director or their designee at [eeodivision@illinois.edu](mailto:eeodivision@illinois.edu).

Prior to the conclusion of the investigation, the Investigator will provide the Parties, their parents/legal guardians, and their respective Advisors of Choice (if so desired by the Parties) an electronic copy of the draft investigation report as well as all of the relevant and not otherwise impermissible evidence obtained as part of the investigation for a five (5) day review and comment period so that each Party may meaningfully respond to the evidence in writing to the Investigator. The Parties may elect to waive the full five (5) days.

The Investigator will incorporate relevant elements of the Parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report.

The final report, along with all relevant and not otherwise impermissible evidence, will then be shared with all Parties, their parents/legal guardians, and their Advisors through secure electronic transmission.

After receiving the final report, each party will have five (5) days to review the report and provide a written response to the Investigator. Each party's response will be shared with the other party. Any information contained in the response that was not shared during the investigation will be considered Newly Offered Evidence and handled in accordance with Section 8.5.4, below.

#### **8.3.4. Expectations of the parties with respect to advisors**

The Parties are expected to inform the Investigator of the identity of their Advisor of Choice at least three (3) days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The Parties are expected to provide timely notice if they change their Advisor of Choice at any time.

#### **8.3.5. Impermissible Evidence**

The investigation will exclude the following types of evidence, and questions seeking that evidence, as impermissible, regardless of whether they are relevant. The investigation does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of:

- a. Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.
- b. A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that Party's or witness's voluntary, written consent for use in this process. If the Party or Witness is a minor, the voluntary, written consent will be sought from the parent or legal guardian.

- c. Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent and is offered to prove consent to the alleged Sex-Based Harassment.

Evidence surrounding romantic or social relationships between parties and witnesses may be relevant to determining the credibility of, and the weight to be given to, testimony. This evidence may be introduced if it does not violate this section.

#### **8.4. Formal Grievance Process – Determination by Investigator**

Once the final report has been issued to the Parties, and the five (5) days to submit a response has lapsed as described in section 8.3.3, the Investigator will engage in an objective evaluation of all the relevant and not otherwise impermissible evidence to determine by a preponderance of the evidence whether there has been a violation of the applicable University policy.

The Investigator has the authority to hear and make determinations on all allegations of discrimination, harassment, retaliation and Sex-Based Misconduct under the Nondiscrimination Policy and the Sex-Based Misconduct Policy that were included in the NOIA.

The Parties will be notified simultaneously in writing of the determination which will include the rationale for such determination, and the procedures and permissible bases for appeal.

#### **8.5. [Left Intentionally Blank]**

#### **8.6. Steps following determination**

##### **8.6.1. Sanctions**

The sanctions will be implemented as soon as is feasible, subject to other legal requirements, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

Sanctions can include a range of actions, including but not limited to educational conversations, training, discipline, discharge, termination, withdrawal from an academic program, and recommendations to pursue revocation of tenure and dismissal. See the Non-Exclusive List of Possible Sanctions for Employees at [wecare.illinois.edu](http://wecare.illinois.edu).

Sanctions for PreK-12 Students will depend upon the behavior, circumstances, history, school/grade level, and other contextual factors. Sanctions may include a range, including but not limited to: verbal or written reprimand, detentions, denial of privileges, educational conversations, conversations with the child's family to make a plan for safety and understanding, and/or

suspension, dismissal, withdrawal, or expulsion from the school. For additional information about sanctions, Parties should consult the Student and Family Handbook.<sup>5</sup>

Sanctions for PreK-12 Student Respondents will comply with all other state and federal laws and will be implemented in a manner consistent with existing school policies.

In matters of Sex Discrimination or Sex-Based Harassment, any sanctions imposed on the Respondent will be communicated to the Complainant.

For findings of Sex-Based Misconduct not including Sex Discrimination or Sex-Based Harassment, sanctions will not be shared with the Complainant.

### **8.6.2. Remedies and other actions**

Following the conclusion of the formal grievance process, if there is a determination that sex discrimination, sex-based harassment, or retaliation occurred, in addition to any sanctions implemented through the Resolution Process, the Title IX Coordinator or their designee may implement additional remedies or actions with respect to the Complainant and/or other persons identified as having had equal access to the University's education program or activity limited or denied by sex discrimination. Remedies or actions help ensure that sex discrimination does not continue or recur within the University's education program or activity.

These remedies/actions may include, but are not limited to:

- a. Referral to school counselor,
- b. Referral to the Employee Assistance Program or Faculty Staff Assistance and Well-Being Services (where a parent or legal guardian is an employee of the University),
- c. Education to the individual and/or the community,
- d. Permanent alteration of work arrangements for employees,
- e. Climate surveys,
- f. Policy modification and/or training,
- g. Implementation of long-term contact limitations between the Parties, and
- h. Academic support such as implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator or their designee, certain supportive measures may also be provided to the Parties even if no Policy violation is found.

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<sup>5</sup> Handbooks for Uni Primary, Uni High, and Orchard Downs Preschool and the Child Development Lab can be found online: [https://uniprimary.illinois.edu/resources/family\\_handbook](https://uniprimary.illinois.edu/resources/family_handbook) and <https://uni.illinois.edu/> and <https://housing.illinois.edu/Living-Communities/Apartments/Orchard-Downs-Preschool> and <https://cdl.illinois.edu/> (under families).



### **8.6.3. Failure to comply with sanctions and/or responsive actions**

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified in the written deliberation statement.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), up to and including school expulsion or termination from the University.

### **8.6.4. Appeals**

Any Party may file a written request for an appeal from a determination regarding responsibility or from OAE's dismissal of a Complaint or any allegations therein. The appellant must submit the written request for an appeal in writing to the Director or AVC within five (5) days of the delivery of the written deliberation statement or notice of dismissal.

A request for appeal must contain the specific grounds for appeal, the specific outcome requested, and the appellant's reasons in support of the ground identified and outcome requested. The request for appeal must bear the appellant's signature. Oral appeals are not accepted.

Appeals must be based on one or more of the following grounds:

- 1) A procedural irregularity occurred that would change the outcome. If citing this ground for appeal, the appellant is required to cite the section of these procedures that was not followed along with how this irregularity changed the outcome.
- 2) New evidence that would change the outcome and that was not reasonably available when the determination whether Sex-Based Misconduct occurred or dismissal was made. If citing this ground for appeal, the appellant is required to specify what new evidence they are now aware of, why it was not reasonably available to them at the time of investigation, and when they became aware of it along with how this evidence would change the outcome.
- 3) The Title IX Coordinator or Investigator had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome. If citing this ground for appeal, the appellant is required to specify who has a conflict of interest or bias for or against whom. The appellant must also specify what the bias is for or against, and the evidence for the bias.

If the EEO Division determines that the appellant has not included the specific ground(s) for appeal, the specific outcome requested, reasons in support of the ground identified, and affix their signature, the appeal will not be considered. The Director or AVC will notify the appellant that their appeal is not going to be considered and cite the pertinent deficiencies. Should this communication be necessary, it will not automatically extend the timeframe for filing an appeal.

The Appeal Process relies on a pool of eligible appeal panel members (“Pool”) to carry out the Appeal process. The Pool acts with independence and impartiality. Members of the Pool are trained annually.

#### **8.6.5. Appeal procedures**

Upon receipt of the written appeal, OAE will notify the other Party and their parents/legal guardians of the submission and grant the other Party access to all submitted documentation.

For appeals of a determination, the other Party will have five (5) days from the date of the notification to submit a written response to be considered as part of the appeal. If both Parties submit a notice of appeal, both Parties and their parents/guardians will be informed, granted access to all submitted documentation, and given five (5) days to submit a written response.

For appeals of a dismissal of a complaint, both parties will have five (5) days from the date of the dismissal to make a statement in support of or challenging the outcome.

OAE will disclose to the Parties and their parents/guardians a list of all the appeal panel members. At this point, the Respondent and Complainant may challenge the objectivity of any person on this list within three (3) days from the disclosure of the panel members. Such a challenge must be based on a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent (e.g. a prior relationship that may result in bias). The challenge is to be submitted with a detailed description of the concern to [eeodivision@illinois.edu](mailto:eeodivision@illinois.edu). The Director or their designee will consider these challenges when making a final decision regarding appeal panel membership. OAE will convene a three-person appeal panel from the Grievance Process Pool consisting of faculty and/or staff to conduct a review of the relevant documents.

The request for appeal, along with any response or statements submitted by a Party will be forwarded to the appeal panel for consideration to determine if the request meets the grounds for appeal. This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds. If the request for appeal does not meet the grounds enumerated in this section, the request will be denied by the appeal panel. The Parties, parents/guardians, and their Advisors will be notified in writing of the denial and the rationale.

If an appeal is not submitted within five (5) days following the delivery of the written deliberation statement or decision to dismiss, and no extension was requested, the request for appeal will not be forwarded to the appeal panel.

Prior to convening to discuss the appeal, the appeal panel will receive the investigatory report or complaint including all relevant evidence and the written deliberation statement if applicable. The appeal panel can request any additional documentation from OAE’s file regarding the matter under appeal if they determine it would assist their deliberation.

The appeal panel will receive introductory remarks from the Director or their designee and will have the opportunity to ask questions of the Investigator. OAE staff will not be involved in the appeal panel discussion and will not have a vote on the appeal. Neither the Respondent nor the Complainant will be allowed to attend the deliberations of the appeal panel, but the Director or Senior Associate may authorize other non-voting individuals to be present in an advisory role if requested by the panel.

If the request meets one or more grounds for appeal, the appeal panel will consider the appeal. The standard of review undertaken by the appeal panel will be the Clearly Erroneous Standard. The appeal panel will not substitute their own judgement for that of the investigator where matters of credibility, fact-finding, and policy interpretation are at issue.

The appeal panel may affirm the Investigator's decision, modify the Investigator's decision, or remand the case to the Investigator with instructions.

The appeal panel will render a written appeal decision in no more than five (5) days from the day the appeal panel convened, barring exigent circumstances. If the appeal panel requires an extension, they should request such from the Director or their designee. If an extension is granted, the Director or their designee will notify both Parties in writing. The appeal panel's decision is based on a majority vote. The decision of the appeal panel cannot be appealed and represents the final decision in the Formal Grievance Process.

The written appeal decision will be sent to all Parties and parents/guardians simultaneously and will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law.

#### **8.6.6. Sanctions status during the appeal**

Any sanctions imposed after the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the supportive measure procedures detailed in Section 5 of these procedures.

#### **8.6.7. Appeal of sanctions**

Any party who wishes to appeal a sanction must contact the appropriate school or program administrator. Parties should reference their school's student/parent handbook or contact the director of their school or program to determine how to submit an appeal to the sanction. Parties should be aware that there may be time limits on filing an appeal.

## 9. Conflicts of Interest

### 9.1. Complaint against the Title IX Coordinator

When there is a report of Sex-Based Misconduct against the Title IX Coordinator, the Chancellor designates an appropriate Investigator or administrator for purposes of implementation of these procedures. The designated Investigator or administrator must have the requisite training and experience and have no conflict of interest or prior involvement in the case. The designated Investigator or administrator could include, but is not limited to, an external Investigator or the System Office's Title IX Coordinator or an official from the University of Illinois at Springfield or the University of Illinois at Chicago, subject to the concurrence of the President or the respective Chancellor, as appropriate. Additionally, the Chancellor will designate an appropriate administrator to serve in the role of the Title IX Coordinator for the limited purpose of overseeing the investigation into the Title IX Coordinator.

The Complainant can submit a complaint directly in writing to the Chancellor of the University of Illinois Urbana-Champaign, 516 Swanlund Administration Bldg., 601 E. John Street M/C 304, Champaign, IL 61820 [Phone: (217) 333-6290].

### 9.2. Complaint against an administrator in the Office for Access and Equity

When there is an a report of Sex-Based Misconduct against the Director or other staff in the Equal Employment Opportunity Division of OAE, the complainant should notify the Associate Vice Chancellor for Access and Equity [Phone: (217) 333-0885 or [accessandequity@illinois.edu](mailto:accessandequity@illinois.edu)]. The AVC will consult with appropriate individuals, including the Title IX Coordinator if the report is related to Sex-Based Misconduct and the ADA Coordinator if the report is also related to discrimination on the basis of disability, to designate an appropriate investigator or administrator for purposes of implementation of these procedures. If there is a conflict of interest involving the AVC, the complaint may be submitted to the Vice Chancellor for Diversity, Equity and Inclusion [Phone: (217) 300-9580 or [diversity@illinois.edu](mailto:diversity@illinois.edu)]. If there is a conflict of interest involving the Vice Chancellor or successively higher-level administrators, the complaint may be submitted directly to the Chancellor.

The designated Investigator or administrator must have the requisite training and experience and have no conflict of interest or prior involvement in the case. The designated Investigator or administrator could include an external Investigator or the System's Associate Vice President and Chief HR Officer, the System Office's Title IX Coordinator, or an official from the University of Illinois at Springfield or the University of Illinois at Chicago, subject to the concurrence of the President or the respective Chancellor, as appropriate.

### 9.3. Complaint against the Chancellor

When there is a Report of Sex-Based Misconduct against the University of Illinois Urbana- Champaign Chancellor, the Complainant should submit a complaint in writing to either the Title IX Office or

directly to the President of the University of Illinois, 364 Henry Administration Bldg., 506 S. Wright St. Urbana, Illinois 61801 [Phone: (217) 333-3071]. If the complaint comes to the Title IX Office, the Title IX Office will route the complaint to the President. The President will consult with appropriate individuals to designate an appropriate Investigator or administrator for purposes of implementation of the applicable policy and procedures.

## **10. Other Provisions**

### **10.1. Confidentiality, privacy, and anonymity**

While every effort is made to preserve the privacy of Reports, Parties, and witnesses, the University cannot guarantee confidentiality or anonymity to anyone participating in the investigation process. Information about Parties and witnesses, including their identity and what information they share with the Investigator is shared with those individuals involved in the investigation and resolution of a complaint who have a need to know. OAE will share information with other University personnel in limited situations as necessary. The University will not share the identity of Reporters, Complainants, Respondents, or Witnesses, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

OAE may share anonymized, aggregated information about complaints with relevant personnel for the purpose of allowing unit, department, college, or University leadership to determine what independent action could be taken to learn about and improve their respective culture and or learning/working environment.

### **10.2. Duty to cooperate**

All people involved in the investigation are expected to cooperate and provide truthful information throughout the investigation.

### **10.3. Promptness**

All allegations are acted upon promptly once notice or a Complaint is received. Written determinations by Investigators are generally completed within seventy (70) days of a Complaint being filed. However, extenuating circumstances can cause delays. The University will avoid all undue delays within its control and provide written notice to the Parties and their parents/guardians of the delay, the cause of the delay, and an estimate of the additional time that will be needed as a result.

#### **10.4. Extensions**

These procedures are designed to allow ample time for parties to review and respond to information. It is in the best interest of both parties and the University to complete investigations in a timely manner. Should a complainant or respondent want additional time, a written request for extension of time may be submitted to the Investigator. The investigator will refer the request to a Senior EEO Associate or Director, who will be responsible for granting or denying the request. Requests must be submitted 24 hours before the original deadline and should include the rationale for requesting the extension along with a proposed deadline. Requests for extension of time will be considered on their merits and will not be granted automatically. Requests for reasonable extensions will be granted when there is good cause shown. The Parties and their parents/guardians will be notified when an extension is granted including the reason for the delay.

#### **10.5. Reports to law enforcement**

A Complainant may elect to file a police report. At the request of the Complainant, OAE will assist with contacting law enforcement agencies. Except in compliance with legal obligations and in very limited circumstances (e.g. child abuse), OAE will not transmit Reports they receive to law enforcement.

A criminal investigation and an investigation filed pursuant to these Procedures may be conducted simultaneously. At the request of law enforcement, OAE may agree to temporarily suspend its investigation for a brief period during a criminal investigation. OAE will promptly resume its investigation once law enforcement has concluded its evidence gathering. A decision whether to file a criminal case or not does not determine the outcome of an investigation under these Procedures.

#### **10.6. False allegations and evidence**

Deliberately false and/or malicious accusations under these procedures (as opposed to allegations which, even if erroneous, are made in good faith) are a serious offense and will be subject to appropriate disciplinary action under the applicable PreK-12 Student handbook or manual, University of Illinois Code of Conduct, or the University of Illinois Student Code. Furthermore, OAE, in consultation with the Title IX Coordinator, may determine that the investigation will not continue if the Complaint is determined to have been deliberately false and/or malicious.

Additionally, witnesses and Parties knowingly providing false evidence, tampering with, or destroying evidence after being directed to preserve such evidence, or deliberately misleading an Investigator can be subject to discipline under the applicable PreK-12 Student handbook or manual, the University of Illinois Code of Conduct, or the University of Illinois Student Code.

Parties and witnesses will not be disciplined for making a false statement or for engaging in consensual sexual conduct based solely on the University's determination of whether a violation of the Sex-Based Misconduct Policy occurred. The fact that a decisionmaker (a) reached a conclusion that was contrary to the statement of a party or witness, and/or (b) found a statement of party or

witness to be lacking in credibility, is not sufficient on its own to demonstrate that the party or witness in question gave a deliberately false statement or acted in bad faith.

#### **10.7. Reasonable accommodations for individuals with disabilities**

The University is committed to providing reasonable accommodations to qualified individuals with a disability to ensure equitable access and participation in OAE's resolution processes. Individuals seeking reasonable accommodation should contact the Accessibility and Accommodations Division to facilitate the interactive process in consultation with the Title IX Coordinator. Individuals with an IEP should also contact their IEP team. If a participant in these procedures is a registered DRES student, OAE will work to implement their DRES accommodations into these procedures where applicable.

#### **10.8. Time limits**

There is no time limitation on reporting an allegation to the Title IX Coordinator or OAE. However, if the Respondent is no longer subject to the University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be limited.

#### **10.9. Joint procedures for employee misconduct**

When a Report alleges that an employee has engaged in conduct that would constitute Sex-Based misconduct, and would also constitute misconduct under other policies governing the conduct of University employees, OAE and Illinois Human Resources may conduct the fact-gathering portion of the investigation jointly in order to enable Illinois Human Resources to reach determinations regarding potential violations of policies other than the Nondiscrimination Policy and the Sex-Based Misconduct Policy.

#### **10.10. Joint procedures for student employee misconduct**

When a report alleges that an undergraduate or graduate University Student employee has engaged in Sex-Based Misconduct, OAE and OSCR will work closely to determine which office will conduct the investigation and may conduct a joint investigation.

In determining which offices will be involved in the investigation, the University will make a fact-specific inquiry to determine which procedures to follow. This inquiry will at a minimum consider whether the Respondent's primary relationship with the postsecondary institution is to receive an education and whether the alleged Sex-Based Harassment occurred while the party was performing employment-related work.

#### **10.11. Resignation while charges pending**

Should a non-student employee Respondent resign, or should their employment be ended for other reasons, while unresolved allegations are pending, the Title IX Sexual Harassment resolution process

may continue at OAE's discretion. Additionally, the University will continue to address and remedy any systemic issues that contributed to the alleged violation(s), and any ongoing effects of the alleged Sex-Based Misconduct.

The employee whose employment ends with unresolved allegations pending is not eligible for rehire with the University. All University responses to future inquiries regarding employment references for that individual will follow the guidance provided in the University of Illinois System Policy on Consideration of Sexual Misconduct in Prior Employment.

### **10.12. Recordkeeping**

OAE will maintain, for a period of at least seven (7) years, OAE's records of:<sup>6</sup>

- 1) Each Sex-Based Misconduct investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation; any disciplinary sanctions imposed on the Respondent; any Remedies provided to the Complainant designed to restore or preserve equal access to the University's Education Program or Activity; any appeal and the result therefrom.
- 2) Any actions, including any supportive measures, taken in response to a Report or Complaint of Sex-Based Misconduct, including: the basis for all conclusions that the response was not deliberately indifferent; any measures designed to restore or preserve equal access to the University's Education Program or Activity; and if no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

### **10.13. Revision of this policy and procedures**

The University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, in consultation with the Title IX Coordinator, OAE may make minor modifications to procedures that do not materially jeopardize the legal rights owed to any Party. OAE may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in these procedures.

These procedures will be construed to comply with the applicable laws, regulations, and court decisions.

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<sup>6</sup> Other university offices, including but not limited to Illinois Human Resources, other Human Resources offices, and the Provost's Office, may also retain their own records regarding a matter that OAE has investigated. This document does not address the retention of such records or how long they may be retained.



This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame it.

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